

City of Northfield
Planning & Zoning Board
1600 Shore Road
Northfield, New Jersey 08225
(609) 641-2832 Ext. 127 Fax (609) 646-7175

Minutes: May 18, 2006

Notice of this meeting had been given in accordance with Chapter 231 Public Law 1975, otherwise known as the Open Public Meetings Act. Notice of this meeting has been given to The Press, posted on the bulletin board in City Hall, and filed with the City Clerk, stating the date, time and place of the meeting and the agenda to the extent known.

The regular meeting of the Northfield Planning & Zoning Board, held on Thursday, May 18, 2006 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:29 p.m. with the following members present:

Dr. Richard Levitt-Chairman
Clem Scharff-Vice Chairman
Mayor Frank Perri
Guy Schlachter, Councilman
Jerry Nuzzolo, Construction Official & Inspector
Lou Milone
Ron Roegiers
Nick Droboniku
Pete DaPrato
Henry Notaro

Thomas Subranni, Esq.- Solicitor
Matt Doran, PE-Engineer

After a reading of Sunshine Laws, the roll call was taken with all of the above members present.

Sprint Spectrum gave a courtesy presentation to the Board concerning the construction of a new cell tower on County property, specifically the County garage located at the corner of Route 9 and Dolphin Avenue in the R-1 Zone. Diane M. Constantine, an Attorney with the Law Offices of Alan B. Zublatt, gave the presentation along with Roger Johnson, an Engineer. They have previously met with Jeffrey Bruckler, City Administrator and Matt Doran, City Engineer. They are addressing the Board tonight to inform the Board of their plans (Dr. Levitt mentioned that the Board does not have jurisdiction over County projects) and to address any questions and listen to any suggestions the Board may have.

Sprint intends to build a 140 ft. monopole in a 60 x 60 fenced-in area near an existing salt shed. 140 ft. is the maximum tower height and it will house 3 co-locators. The closest lot is 191 ft. away from the site and they are well within setback requirements of 140 ft. Mr. Johnson described the site plan and noted that the existing tower is to be removed. Permits will come through DCA and they will bring the project before the Atlantic County Planning Board. Mr. Subranni stated for the record that this Board reserves the right to have Sprint come back before the Planning Board for a formal review. Sprint also intends to build a 12 x 20 radio shelter which

will be environmentally controlled. Antennas will be at a height of 142 ft. and lightning rods at 146 ft. Cables will be housed inside the monopole and will not be visible. The County originally put out a bid for the construction of the pole and Sprint received a license agreement for the pole and does not have a lease. The utilities needed are telephone & electric. Connection poles are existing and they will need to drop one pole and will trench underground to the facility. Once or twice a month a technician will visit the site by SUV to check operations. Dr. Levitt commented that it is an advantage that they intend to house other carriers and is pleased with the location. Mr. Johnson noted that each carrier will have their own access locks. Mr. Scharff asked about lighting. Mr. Johnson said that lighting will be according to FAA requirements. Mayor Perri asked how far coverage will reach and was told that the range will be about a mile and ½. Mr. Johnson noted that all setback requirements will be met. Dr. Levitt commented that the Mr. Subranni will investigate whether or not the Board has jurisdiction concerning this project. Mayor Perri asked who actually will own the tower and Mr. Johnson stated that he believes Sprint will own it, but the County will share revenue. Mayor Perri stated that the tower would be privately owned but would be located on government property. Dr. Levitt asked if anyone from the public wished to speak. There was no one with any comments. The presentation ended at 7:48 p.m.

The first application of the evening was from Atlantic Medical Imaging, LLC located at 1810 Shore Road, Block 173, Lot 18, in the R-1 Zone. Mr. Sal Perillo, Esq. of Perskie, Nehmad & Perillo, P.C. is representing the applicants. Dr. Marc Peck, the owner of the property, was sworn in. They are requesting a Certificate of Non-Conformity as a continued use for Professional Medical Offices. The present use is Professional Medical Office. This was the use at the time of change of Ordinance in the City. The current hours of operation are between 8:00 a.m. and 6:00 p.m. The existing building at 2,500 square feet will remain on the property and no expansions are proposed. Mr. Peck has been in business at the site for about 35 years. He purchased the property in 1971 and built the medical facility a few years after. In 1996, he expanded the business by opening a facility in Egg Harbor Township and stopped using the Northfield property for 2 years. He re-opened the Shore Road facility in 1998 due to necessity of business. The Zoning Officer at the time, Mr. Payntor Vincent, questioned the abandonment of use, but this was determined not to be the case through communication between the City Solicitor, Mr. William Nugent, Esq. and Barbara Washburn, the Attorney for Atlantic Medical Imaging. Mr. Peck is interested in selling the property at this time and wants there to be no questions concerning the non-conformity issue. Mr. Peck presently owns 7 X-ray businesses. He has finally decided that he no longer needs the Shore Road property and wants to sell.

Dr. Levitt stated that the office is in a residential zone and he asked the applicants if they felt the medical use was abandoned. They stated "No", and said as of 1998, they occasionally used the building for ultrasounds as an overflow facility for EHT. The equipment is still there and is serviceable and usable, but it is now rarely used. Dr. Levitt asked for an Engineer's report. The Engineer does not review these types of applications. Dr. Levitt commented that he was at the site recently and there are no parking lines, but the building has always been attractive. Mr. Peck commented that there are 16 parking spaces available. Mr. Doran added that 15 are required for medical uses.

Mr. Perillo spoke on the issue of abandonment. In 1998 the City determined that the business use had not been abandoned. The law in New Jersey on the subject of what constitutes abandonment is broad. The law does state that if there is no intention to abandon, then there is no abandonment, even if, for good reason, the non-conforming use is not presently being used. The type of use would have to be clearly changed for abandonment to exist. Dr. Levitt expressed concerns over a possible change in the type of medical use. He has concerns that the intensity of use would change and thus affect parking, etc. Mr. Perillo commented that our Ordinance does not differentiate between types of medical uses allowed. Dr. Levitt said that a more intense use may not necessarily be grandfathered. Mr. Perillo commented that the applicant is not seeking a

use variance and stressed that there will be no expansion of use. The building has been a medical office and will continue as a medical office. He also noted that the current use was not permitted before 1986. Mr. Subranni added that the Board has a right to look into the possibility of a change in the intensity of use and the Board can put a limit on intensity of future use. Dr. Levitt reminded the applicants that no Shore Road parking is available and wants assurance that overflow parking will not become a problem.

Dr. Peck gave an overview of the medical use in the past. At the height of the business use, there were 4 exam rooms and each had a technologist. There were 3 or 4 clerical employees, a doctor on staff, as well as a nurse. There were approximately 10 employees and patients and the intensity was significant. One of the reasons they expanded the business to the Township was due to parking issues and number of personnel required to operate the growing business. It would not be in Dr. Peck's interest to sell his business to another radiologist.

Dr. Levitt addressed parking problems. He wants conditions set for use according to available parking. The intensity of use must be suitable to on-site parking. The owners would need to improve and line the parking spaces, do something about the trash dumpster that is occupying 2 of the existing parking spaces, and assure that on-site parking will be available so as to avoid any overflow into surrounding neighborhoods. Mr. Scharff commented that there really isn't anywhere else to park nearby and that he has not noticed a problem with parking at the site. Also he stated that the owners keep up with the building nicely. Mayor Perri commented that they need to clarify what type of facility would operate at the site. Mr. Perillo wants a clarification that the use can be Office/Professional or a medical facility and noted that an office would be a less intense use than a medical office.

Dr. Levitt opened the public session. Mr. Dean Heiler of 1826 Shore Road lives in the white Victorian house near the corner of Shore & Mill Roads. He has lived there for 4 years. He is concerned with parking. He noted that the use has been administrative and he has seen 15 to 20 cars at a time in the lot. He has noticed overflow parking in the business lot across the street. He said that employees throw trash from lunch onto his property and that there is no fence or buffer. He worries that a new medical use will increase the intensity of use and has a problem with the dumpster not being enclosed.

Mr. Roegiers clarified with Mr. Heiler that the surrounding businesses (including the car detailing business) were established and operating businesses when Mr. Heiler bought his house.

William Triplet of 1806 Shore Road wished to be heard next. He has the adjacent property on the other side of Atlantic Medical Imaging. He has owned his property for 7 years. He has no complaints against AMI but does worry that increased traffic flow could occur should a different business take over. There is no buffer on his side except a small fence and shed. He feels parking is currently stressed to the maximum. He has seen cars parked two deep on his side and stated that delivery trucks can't get onto the property.

Dr. Levitt closed the public session seeing that no one else wished to be heard.

Mr. Perillo questioned AMI's Business Administrator, Michael Jenoriki, about the number of current employees. He stated that there were approximately 20 employees. Dr. Peck stated that they have not used the radiology equipment at the site for at least 1 year. Mr. Perillo stated that the Administrative use has been a use for a medical practice.

Discussion and review of previously mentioned issues continued between the Board and the Applicant and his Attorney. It was suggested by Mr. Nuzzulo that the application be postponed until further research of the 1979 ordinance and past building permits can be researched. Mr.

Perillo referenced a letter from Michael Jenoriki to William Nugent, Esq. dated March 16, 1998 and which is part of the present application. This letter describes installation of telephone lines, modems and computer equipment that linked the medical offices and also described the administrative medical uses they intended to carry out.

Discussion continued regarding the dumpster, the possibility of a past variance that may have been passed, and the use both past, present and future. A straw poll was taken of the board members for comments. The members stressed that employee numbers need to be restricted due to the parking available. Mayor Perri has concerns with the classifications of Office Professional and the possibilities of business types that could purchase the property. He stated that currently non-conformity exists and that the use grandfathered is medical use. Mr. Schlachter has concerns with traffic flow at the site and thinks the parking is inadequate for 10 employees. He feels the Board is obligated to give the certificate with restrictions and he feel that a use other than medical should require a variance. Dr. Levitt noted that the Board cannot restrict the type of Office professional use under the ordinance. He also hopes for a Law type of firm to purchase the site as this will decrease the intensity of use. Mr. Milone said that parking problems can be lessened with the control over the number of employees. Mr. Scharff stated that the Board is bound by the existing grandfathered use, but he has concerns with the number of employees allowed. He feels Office Professional is OK, but should be limited to the number of people the building can handle and the number of exits available. Mr. Nuzzolo had no comment. Mr. DaPrato has concerns about the future use of the building and feels the Board needs to listen to the residents' comments and limit the number of employees. Mr. Droboniku thinks the use should be Office Professional. Mr. Roegiers agreed with him and commented that the City may see a decrease in usage with a different type of business. Mr. Notaro agrees with Office Professional classification as does Mr. Nuzzolo and Mr. DaPrato. Mr. Perillo continued to state that Medical Use is a part of Office Professional Use.

Dr. Levitt summarized the conditions. The number of employees would be limited to 10, there can be only 4 treatment rooms, approval is subject to Matt Doran's approval of parking spaces and lines and the position of the dumpster. Any other use would need to come before the Board. They also must conform to the Noise Ordinance in the City in all respects, especially where trash pick-up and removal are concerned. Mr. Perillo commented that his applicant would prefer an Office Professional buyer to a Medical buyer which would be considered a 'lesser use'.

Mr. Milone made the motion which stated that a Certificate of Non-conformity would be issued, at the time of 1986 Ordinance, there were 10 employees and 4 exam rooms and this would be the maximum allowed, and the conditions of approval include lined parking spaces and that the dumpster will be located and screened in a manner approved by our Engineer. Mr. Droboniku seconded the motion. All members present voted to approve the application with Mr. Notaro abstaining due to being the 10th voting member.

Chairman Levitt called for a one minute recess at 9:57 p.m.

The meeting reconvened at 10:02 p.m. with the second application of the evening. The applicants are First States Investors 5200, LLC and they own the Bank of America at 1501 Tilton Road, Block 95, Lot 38. First States has owned the property for 2 and ½ years. The Attorney is William R. Serber and a witness is Kormack Morrissey, Engineer, who was sworn in. Exhibit A-1 was entered into the record. The exhibit is an April 10, 1980 Board of Adjustment resolution in which the Board acknowledges permission to use a portion of Lots 44 & 45 (now owned by Anthony Patermo, Jr.) for commercial parking. Guarantee Bank originally owned this land. The rear lot has been used for parking for over 30 years. Lot 38 is in the OP Zone and Lots 44 & 45 are in the R-1 Zone. The applicants are seeking a minor subdivision and site plan approval

including a bulk variance for the non-conforming buffer area. The applicants have also requested a use variance for the existing parking should the Board deem it necessary.

The original site plan was unable to be located. The applicants feel that they do not need a use variance or site plan approval since parking on the lot has been in use since the 1970's and they are not making any structural changes or development. They are seeking a new line to be drawn between lots 44 & 45 and they want to purchase the land from Mr. Patermo and add it to Lot 38. Mr. Morrisey testified that the Lot the Bank wishes to purchase has 20 parking spaces.

Mr. Subranni commented that the applicants do not need a use variance since there is evidence of previous parking permission. Mr. Doran explained in his report that the subdivision would require a variance due to the buffer requirement between the existing parking area and the home on lots 44 & 45. A 15 ft. buffer is required and they are proposing 3 ft. Mr. Doran questioned the existing shed square footage. If the shed is 12 x 12 or greater, it does not meet the setback. Mr. Anthony Patermo was sworn in and testified that the shed is 8 x 12. Mr. Doran said the shed meets the 3 ft. setback. Mr. Doran questioned how they will file the subdivision. Mr. Serber said he believed they will file by plat which means they will follow current Map Filing Laws. Approval from the County is needed before any plans are signed. The applicants will also be required to submit the \$2,500.00 Recreation fee required by Ordinance for subdivisions.

Chairman Levitt opened and closed the public session seeing that no one wished to be heard.

Mr. Scharff asked if there were any plans to replace the large diseased tree that was previously removed. Mr. Foster of First States said they would be willing to replace the tree with another shade tree.

Mr. Scharff made the motion for subdivision approval and setback variances for the buffer between the commercial property and the residential zone at 3 ft. as opposed to the 15 ft. requirement. They will plant one shade tree to replace the tree removed on Tilton Road between parking lots (see plans-cut out section in parking lot) and the 1980 Resolution will be referenced acknowledging prior approval of 29 parking spaces in a residential zone. Site Plan approval and the "D" variance were not needed. Mr. Milone seconded the motion. All members present voted unanimously for approval.

There were two resolutions to memorialize from the last meeting. Mr. Scharff, Mr. Milone, Mr. Roegiers, and Mr. Notaro abstained due to absence at the previous meeting. Mr. Nuzzolo made the motion and Mr. Droboniku seconded. The vote was unanimous for approval for the resolutions for Smart Cookies and Jon Barnhart.

Chairman Levitt closed the meeting at 10:30 p.m. with a motion from Mr. Nuzzolo and seconded by Mr. Scharff.

Respectfully submitted,

Robin Atlas-Clinton, Planning Board Secretary